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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,598

10/17/2003

Yu Zheng

PAT-1357-CON

2273

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08/08/2008

EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

08/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/688,598	Applicant(s) ZHENG, YU	
	Examiner Winnie Yip	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Part II DETAILED ACTION

This office action is in response to applicant's amendment filed on October 26, 2006.

Applicant's request for reconsideration of mistaken of Advisory Action mailed on November 17, 2006 is persuasive and, therefore, the Advisory Action is withdrawn. Applicant's amendment filed on October 26, 2006 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Priority

I. In response to applicant's argument that the effective date of benefit this applicant should be the earlier application 07/764,784 filed September 24, 1991 since the earlier application has provide a support to the present application, the argument is deemed persuasive. Therefore, the effective date of benefit this application is being as an earlier filing date, September 24, 1991, of prior-filed non--provisional application 07/764,784, now US Patent No. 5,301,705.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned

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with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 17-20 and 22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 5,941,265, and claims 1-7 of US Patent No. 6,766,815, and claims 1-23 of U.S. Patent No. 6,499,498, and claims 1-12 of U.S. Patent No. 6,684,894. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim same substantial subject matter with different wordings. They claim a collapsible structure comprising at least two panels each having a frame member having a folded and unfolded orientation, a fabric material covering the frame member to form the panel, the frame being retained by a frame retaining sleeve, each frame can be twisted into a plurality of concentric rings, and two panels being coupled at an angle with respect one to another such that one of the panel is capably positioned vertically while another panel positioned at an angle with respect to a horizontal surface, and an amusement feature of the application broadly read on attachment device such as a suction cup or basket provided on the fabric of one panel of said respective patent. Claims 17-20 and 22 of the application are **generic** to all that is recited in claims said patents. In the other work, the claims of said patents fully encompass the subject matter of claims 17-20 and 22 of the application, and therefore anticipate claims 17-20 and 22 of the application.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See MPEP § 804.

Claim Rejections - 35 USC § 102

4. Claims 17-18, 20, and 21 rejected under 35 U.S.C. 102(e) as being anticipated by Brady US Patent No. (5,137,044).

Brady teaches a collapsible structure comprising a first panel (R) and second panels (S) each having a loop of foldable frame member (42a, 42b) respectively, the foldable frame member having a folded and unfolded orientation, a fabric material (22) covering each of the frame member to form a flat panel when the frame member is in the unfolded orientation, each frame member (42a or 42b) of the panel being mounted along a sleeve (50) of along the fabric material, each panel (R or S) being collapsed to a small sized by twisting and folding the frame member (see Fig. 16), the two panels having top sides being hingedly coupled together along the sleeve such that the top side one of the panel is considered hingedly and angularly coupled to the fabric (the sleeve) of another panel, wherein one of the panel (R) having a bottom side being capably rest and contact with a horizontal surface such as to the ground while another panel (S) being positioned at an angle with respect to the horizontal surface when the structure is deployed on the horizontal surface (notice, the bottom of the structure is not necessary to be placed on the horizontal surface as amended).

Regard to claim 20, Brady's teaches an opening (27) with a flap (27a) providing an amusement feature on the fabric (22) of either one of the panel.

Regard to claim 22, Brady's structure includes the two panels may have different sizes.

Claim Rejections - 35 USC § 103

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brady ' as applied to claim 17 above, and further in view of McLeese (US Patent No. 4,858,634).

Brady teaches the collapsible structure having a base panel (28) comprising a fabric material mounted between the vertical panel and the angle panel for providing a base of the structure, but Brady does not define the base panel having a foldable frame coupled to the fabric material. McLeese teaches a collapsible structure comprising a base panel comprising a foldable frame member (14) and a fabric material (68) coupling the frame member (14) to form a flat panel for providing a base support to the structure. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible structure of Brady having the base panel formed by a foldable frame member coupled by a fabric material as taught by McLeese for providing a stabilizing base support to the structure.

Response to Arguments

6. Applicant's arguments filed October 26, 2006, with respect to the rejection(s) of claims 17-20, and 22 under 35U.S.C. 102/103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration in view of amendment, a new ground(s) of rejection is made as set forth above discussion.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Winnie Yip/
Primary Examiner
Art Unit 3636

wy
July 31, 2008